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IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6766 of 2007

Prakash Sakharam Paste .. Petitioner

versus

State of Maharashtra & ors .. Respondents

...

Mr.Uday Warunjikar i/b K.R. Jagdale for the petitioner.

Mr.A.H. Palekar, AGP for the State.

CORAM : S.B. MHASE AND

D.G.KARNIK, JJ

DATED : 4th October 2007

P.C.:

. Heard learned counsel for the parties.

2. By consent, taken up for final hearing.

3. The grievance of the petitioner is that not only the Maharashtra Administrative Tribunal (for short "the Tribunal") has not granted ad-interim relief against the transfer of the petitioner, the Tribunal has further issued an order that petitioner

is directed to join at the transferred post without prejudice to his right to challenge the transfer order.

4. Counsel for the petitioner submitted that Tribunal at the most could have refused to grant the ad-interim relief but could not have issued a further direction to the petitioner to join as the transferred post. In our opinion, the order was passed by the Tribunal not with a view to compel the petitioner but to permit him to join at the transferred order. However, since a different meaning can be attributed by use of the word "directed" we would substitute the word "directed" in the order dated 3rd September 2007 by the words "at liberty". Ordered accordingly. This means that the petitioner would be at liberty to join the transferred post without prejudice to his right to challenge the transfer order.

5. Petition is disposed of with this modification.

(D.G. KARNIK, J) (S.B. MHASE, J)